IN THE HIGH COURT OF JUDICATURE
FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.1449/2007.

Isak Mohammed & Ors.
Vs.
State of Rajasthan & Ors.

Date of order : 28/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Ashok Gaur for the petitioners.
Shri Harshvardhan Nandvana, Government Counsel.
Smt. Sharda Pathak for the respondents.

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BY THE COURT:-

Heard learned counsel for the parties.

2) Though the matter is listed on this second stay application filed by the petitioners but learned counsel for the contesting respondents has vehemently opposed the same and has prayed for vacation of the earlier interim-order granted in favour of the petitioners.

3) Smt.Sharda Pathak, learned counsel appearing for the respondents has invited the attention of the court towards the judgment passed by the S.D.O. Kishangarhbas dated 28/4/1994 and has also produced on record copy of the plaint on the basis of which, the aforesaid order was passed. She has argued that the suit filed on the same facts was rejected on 8/2/2001 and the appeal there against was also rejected by the revenue appellate authority on 1/11/2001 and this fact was suppressed by the petitioners when the initial stay order was passed.

4) On being asked, learned counsel for the petitioners submitted that this fact was disclosed by the petitioners in para 17 of the writ petition which reads as under:-

> “17. That the petitioners submit that a suit was filed under Sections 88, 89 and 188 of the Rajasthan Tenancy Act by Dinu and others for recording entries in their name in respect of Khasra No.349 of village Thanaghoda. The suit was dismissed by S.D.O. on 8.2.2001. The appeal filed before the R.A.A. has also been dismissed by order dated 1.11.01.”

5) A perusal of the plaint Annexure.R/1 reveals that the revenue suit was filed jointly by as many as 52 plaintiffs including petitioner No.1 Ishak at Sr.No.33, petitioner No.2 Suleman at Sr.No.20 and petitioner No.3 Sumer at Sr.No.42. Copy of the judgment dated 8/2/2001 whereby the revenue suit was rejected clearly indicate that allotment made in favour of private respondents could not be cancelled because the S.D.O. had no power to change the entries of revenue villages. Judgment of the revenue court was further challenged by the petitioners and others before the revenue appellate authority. The revenue appellate authority vide its judgment dated 1/11/2001 rejected the appeal of the petitioners. It is not in dispute that the judgment of the revenue court was not challenged any further and thus allotment made in favour of the respondents having attained finality remained intact. Now, at this belated stage, in 2007, this petition

has been filed with the prayer that the respondents be restrained from making the allotment made in favour of respondent No.1 regular. The petitioners have not disclosed the fact that their earlier suit to the same effect was dismissed on 8/2/2001 and appeal there against was also rejected on 1/11/2001. They have not made frank and full disclosures while approaching the court. Even otherwise, the order of the revenue court which had attained its finality in 2001 itself, at this belated stage, petition filed by the petitioners for revival of the old prayer cannot be entertained.

This petition is therefore dismissed for the aforestated reasons.

(MOHAMMAD RAFIQ), J.

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